Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 018-04969-1418-058		Date: 04/13/18	Time: 2330
Location: 18558 Gale Avenue		City or Station: Industry	
Bureau/Station/Facility: East Patrol Division, Industry Station		Admin. Investigation: ○ YES ● NO	
Type of Force: Control Holds, Personal Weapons (hands, knee), O.C Spray, Resisted Handcuffing			
Incident Category: ○ 1 ○ 2 ● 3	Deputy Injury: ● YES ○ NO	Suspect Injury ● YES ○ NO	
☒ Call	☐ Observation	☐ Detail	☐ Foot Pursuit ☐ Vehicle Pursuit
IAB Notified: ● YES ○ NO	Person Notified: Lt. Roberta Granek	Emp: [redacted]	IAB Roll Out ● YES ○ NO

Involved Employee

E1

Employee #: [redacted]	Last Name: Merrick	First Name: Shawn	Middle I.: P	Rank: DSG	
Sex: ● M ○ F	Race: W	Height: 511	Weight: 195	Age: [redacted]	Shift: ● EM ○ Day ○ PM; ● Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment: Industry Station			Work Assignment (Unit #, Module, etc.): 141K2		
Individual Force Used: Personal Weapons, O.C. Spray, Resistive Handcuffing			○ Directed ○ Rescue ○ Medical Assist	Individual Category ○ 1 ● 2 ○ 3	
☒ Injured ☒ Treated ☐ Admitted	Facility:			Coroner Case #	

E2

Employee #: [redacted]	Last Name: [redacted]	First Name: [redacted]	Middle I.: [redacted]	Rank: DSG	
Sex: ● M ○ F	Race: W	Height: 508	Weight: 160	Age: [redacted]	Shift: ● EM ○ Day ○ PM; ● Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment: Industry Station			Work Assignment (Unit #, Module, etc.): 141K1		
Individual Force Used: Control Holds, Personal Weapons, Resisted Handcuffing			○ Directed ○ Rescue ○ Medical Assist	Individual Category ○ 1 ● 2 ○ 3	
☐ Injured ☐ Treated ☐ Admitted	Facility:			Coroner Case #	

E_

Employee #	Last Name	First Name	Middle I.	Rank	
Sex: ○ M ○ F	Race:	Height:	Weight:	Age:	Shift: ○ EM ○ Day ○ PM; ○ Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment:			Work Assignment (Unit #, Module, etc.):		
Individual Force Used:			○ Directed ○ Rescue ○ Medical Assist	Individual Category ○ 1 ○ 2 ○ 3	
☐ Injured ☐ Treated ☐ Admitted	Facility:			Coroner Case #	

On Duty Supervisor

☐ Additional Involved Employees

Emp. #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Macias	Ruben		Sgt.	YES ○ NO ●	YES ○ NO ●

Supervisor Completing Investigation

Emp. #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Arellano	Thomas	M	Sgt.	YES ○ NO ●	YES ○ NO ●

Watch Commander / Supervising Lieutenant

Emp. #	Last Name	First Name	Middle I.	Rank
[redacted]	Smitson	Eric	C	Lt.

[signature] 2-7-19

Watch Commander / Supervising Lieutenant's **Signature**: Date | Copy Provided to Employee by: | Emp #:

Unit Commander **(Print Name)** | Unit Commander's **Signature**: | Emp #: | Date

DISCOVERY Use Only
FO# 2452922

☐ PPI REVIEW COMPLETED

Original: Discovery Unit
Copy: Unit Commander

Supervisor's Report on Use of Force
SUSPECT INFORMATION

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Suspect Information

S 1

Last Name	First Name	Middle Name	Armed? Select
Bai	Tony		Not Armed

AKA Last Name | First Name | Middle Name

Sex:	Race:	Age:	Height:	Weight	D.O.B:	Phone #1: ○ H ○ W ◉ C	Phone #2: ○ H ○ W ○ C
◉ Male ○ Female	O	22	600	170	09/05/95	626 715-7622	

Street Address: [redacted] City: [redacted] State & Zip Code: [redacted]

Booking #: [redacted] Primary Charge Code: 243(C)(2) PC Secondary Charge Code: 69 PC ☒ Criminal History

Treated on Scene? ◉ YES ○ NO Name: LACO Fire, Capt. Murphy Unit: E-145 Phone #: 626 854-3486

Hospital Admission? ☐ Rec'd Treatment At: Queen of the Valley Coroner Case #: N/A Mental History ☐ User's guide provides direction on this entry

By: Robert Rivers, P.A. Address: 1115 S. Sunset Ave, West Covina Phone #: 626 962-4011

Under Influence: ◉ YES ○ NO Substance: Alcohol 5150 a factor in force? ○ YES ◉ NO User's guide provides direction on this entry

Date: 04/14/18 Time: 1125 ☒ Audiotape: ☒ Videotape: ☒ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name | First Name | Middle Name | Armed? Select

AKA Last Name | First Name | Middle Name

Sex: ○ Male ○ Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ○ H ○ W ○ C | Phone #2: ○ H ○ W ○ C

Street Address: City: State & Zip Code:

Booking #: Primary Charge Code: Secondary Charge Code: ☐ Criminal History

Treated on Scene? ○ YES ○ NO By: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐ User's guide provides direction on this entry

By: Address: Phone #:

Under Influence: ○ YES ○ NO Substance: 5150 a factor in force? ○ YES ○ NO User's guide provides direction on this entry

Date: Time: ☐ Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name | First Name | Middle Name | Armed? Select

AKA Last Name | First Name | Middle Name

Sex: ○ Male ○ Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ○ H ○ W ○ C | Phone #2: ○ H ○ W ○ C

Street Address: City: State & Zip Code:

Booking #: Primary Charge Code: Secondary Charge Code: ☐ Criminal History

Treated on Scene? ○ YES ○ NO By: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐ User's guide provides direction on this entry

By: Address: Phone #:

Under Influence: ○ YES ○ NO Substance: 5150 a factor in force? ○ YES ○ NO User's guide provides direction on this entry

Date: Time: ☐ Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

☐ **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION

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Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Macias	Ruben	E.

Unit of Assignment	Work Assignment (Unit #, Module, etc.)	Shift	Status
Industry Station	140S	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Caraceho	Enrique	

Unit of Assignment	Work Assignment (Unit #, Module, etc.)	Shift	Status
Industry Station	140S	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Magana	Ernest	A.

Unit of Assignment	Work Assignment (Unit #, Module, etc.)	Shift	Status
Industry Station	144F	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		Adult	

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

☐ Additional Witness

Supervisor's Report on Use of Force

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Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(RO) Restraint Device (Other)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(IR) Less Lethal Impact Round (other)
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative
(HR) High Risk

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Involved

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Bai, Tony	S#1	Merrick, Shawn	E#1	RS	NN	-
Bai, Tony	S#1	Merrick, Shawn	E#1	PH	NN	-
Bai, Tony	S#1	Merrick, Shawn	E#1	PH	AB	NK
Bai, Tony	S#1	Merrick, Shawn	E#1	PH	NN	CH
Bai, Tony	S#1	Merrick, Shawn	E#1	PK	CP	KN
Bai, Tony	S#1	Merrick, Shawn	E#1	HR	NN	-
Merrick, Shawn	E#1	Bai, Tony	S#1	CT	NN	AR
Merrick, Shawn	E#1	Bai, Tony	S#1	PP	NN	CH
Merrick, Shwaw	E#1	Bai, Tony	S#1	PH	BR	FA
Merrick, Shawn	E#1	Bai, Tony	S#1	OC	NN	FA
Merrick, Shawn	E#1	Bai, Tony	S#1	RH	NN	HD
[redacted]	E#2	Bai, Tony	S#1	CT	NN	LE
[redacted]	E#2	Bai, Tony	S#1	PO	NN	AD
[redacted]	E#2	Bai, Tony	S#1	PO	NN	HI
[redacted]	E#2	Bai, Tony	S#1	RH	NN	HD

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT: **Use of Force, Category 3, Orbital Fracture**

IAB FILE NUMBER: **FO2452922**

URN: **918-04969-1418-058**

DATE/TIME: **April 13, 2018, 2330 hours**

LOCATION: **18558 Gale Avenue, Four Seasons Plaza, Industry CA, 91748**

SYNOPSIS

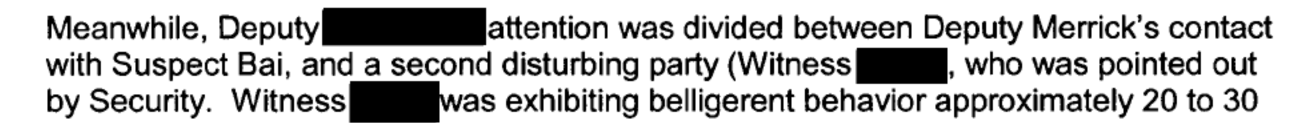
On April 13, 2018, at approximately 2315 hours, deputies from Industry Station responded to a call for service at the Four Seasons Plaza. The call indicated there were two disturbing parties in the parking lot, drunk and out of control.

> **IAB Note: The Four Seasons Plaza is a two story multi-unit retail center comprised of restaurants, specialty shops, and professional services.**

The call was assigned to Unit 141K2, Deputy Shawn Merrick #[redacted] Deputy [redacted] #[redacted] was assigned as the assisting unit (Unit 141K1).

Deputy Merrick arrived at the location moments before Deputy [redacted] A patron in the parking lot directed Deputy Merrick toward a white luxury car parked in the eastern portion of the parking lot. Deputy Merrick approached the vehicle on foot and observed a male Asian adult, later identified as Tony Bai (Suspect Bai), passed out on the hood of the car. Suspect Bai was bleeding from apparent facial injuries and appeared to have been the victim of an assault, or involved in a fight.

Deputy Merrick assisted Suspect Bai off of the vehicle and sat him on the curb adjacent to the vehicle's front bumper. Suspect Bai reeked of alcohol and he appeared to be extremely intoxicated. Suspect Bai declined Deputy Merrick's offer for medical assistance.


Meanwhile, Deputy [redacted] attention was divided between Deputy Merrick's contact with Suspect Bai, and a second disturbing party (Witness [redacted], who was pointed out by Security. Witness [redacted] was exhibiting belligerent behavior approximately 20 to 30

yards from where Deputy Merrick was contacting Suspect Bai. Witness [redacted] appeared to be extremely intoxicated.

Deputy Merrick assisted Suspect Bai to his feet so he could conduct a cursory search, pending a detention for drunk in public and an assault investigation. Suspect Bai was cooperative, then for no apparent reason, he became assaultive and swung his fist at Deputy Merrick's face. Deputy Merrick dodged the assault by backing away.

Recognizing Suspect Bai's inebriated state, Deputy Merrick tried to persuade him to calm down, telling him that he was there to help him. Suspect Bai responded by swinging his open hand at Deputy Merrick, striking him on the right side of his neck.

Deputy Merrick attempted to control Suspect Bai's hands, but Suspect Bai pulled away and stuck Deputy Merrick in the chest which knocked the badge off his uniform shirt. Suspect Bai then reached for Deputy Merrick's neck, with both hands, and grabbed the radio microphone that was clasped to his uniform shirt. Deputy Merrick swiped Suspect Bai's hands away, causing his radio microphone to detach from his uniform, yet was still tethered by the coiled cable. Deputy Merrick pushed Suspect Bai in the chest to create distance between himself and Suspect Bai.

The push caused Suspect Bai to backpedal, bouncing off of Deputy [redacted] who approached from between a row of parked cars and an area of landscaped overgrowth. Suspect Bai continued backward a short distance until he fell onto the grassy surface, and landed on his back. Deputy Merrick tracked Suspect Bai as he fell. Suspect Bai kicked Deputy Merrick in the knee as Deputy Merrick approached for re-engagement. Deputy Merrick straddled Suspect Bai, utilizing his body weight to pin him on the ground.

With his back on the ground, Suspect Bai continued his assaultive behavior, swinging his fists at Deputy Merrick. Deputy Merrick attempted to end Suspect Bai's combative behavior and struck him in the face with his fists, three to five times in rapid succession. Suspect Bai shielded his face with his arms and refused to comply with commands to turn onto his stomach.

Deputy [redacted] applied a lateral knee strike to the right side of Suspect Bai's torso in an attempt to get him onto his stomach. Suspect Bai curled into a fetal position and continued his refusal to comply with the repeated commands to turn onto his stomach and place his hands behind his back.

Deputy Merrick sprayed Suspect Bai in the face with his OC Spray after Suspect Bai did not respond to their repeated commands. Suspect Bai then turned onto his stomach and attempted to raise his midriff onto his knees. Deputy [redacted] applied a lateral knee strike to Suspect Bai's upper left leg area in an attempt to get him back onto the ground. Once flat on his stomach, Deputies Merrick and [redacted] were able to handcuff Suspect Bai's hands behind his back without further incident.

The incident was documented under Uniform Report Number, 018-04969-1418-058. Refer to Reports for additional information **[EXHIBIT A].**

INVOLVED EMPLOYEE AND WORK HISTORY

Shawn P. Merrick, Deputy Sheriff, #529572

East Patrol Division
Industry Station

Date of Employment:	July 25, 2007
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	
Prior Founded Force Incidents:	[redacted]

Equipment Worn On Person

Deputy Merrick was wearing a Class A uniform with a gun belt equipped with the following equipment:

Duty weapon with three (3) additional magazines, radio, OC Spray, expandable baton, flashlight, Rip Hobble, and two (2) handcuffs.

INVOLVED EMPLOYEE AND WORK HISTORY

[redacted], Deputy Sheriff, #[redacted]

East Patrol Division
Industry Station

Date of Employment:	January 10, 1996
Date Assigned to Patrol (Pico Rivera Station):	October 29, 2001
Date Completed Patrol Training:	[redacted]
Date Assigned to Industry Station	October 7, 2007
Prior Founded Force Incidents:	[redacted]

Equipment Worn On Person
Deputy [redacted] was wearing a Class-A uniform with a gun belt equipped with the following equipment:

Duty weapon with two (2) additional magazines, radio, O.C. Spray, two (2) handcuffs, and a flashlight.

SUSPECT INFORMATION

Tony Bai, Booking #5284443
Male Asian, DOB: September 5, 1995, 6'00/170
CII #[redacted] MAIN #[redacted], FBI #[redacted]

A copy of Suspect Bai's Consolidated Criminal History is included with this report in **Miscellaneous Documents**.

SUSPECT'S INJURIES

Suspect Bai sustained bruising and swelling over his left eye and face, a swollen upper and lower left lip, an abrasion on the right side of his forehead, an abrasion to the back of his head, abrasions on his right knee.

Suspect Bai was treated on scene by L.A. County Fire/Paramedics then transported to Queen of the Valley Hospital where he was diagnosed with a left orbital wall fracture. Suspect Bai was subsequently medically cleared for booking. Refer to Medical Reports for additional information **[EXHIBIT B].**

Video images and still photographs documenting Suspect Bai's injuries are included as **[EXHIBIT C].**

DEPUTY PERSONNEL INJURIES

Deputy Merrick sustained abrasions to both hands, a scratch on the right side of his neck, and complaint of pain to his right knee. Deputy Merrick was treated on scene by L.A County Fire/Paramedics. He was subsequently treated at U.S Health Works, Claim #[redacted].

Photographs depicting Deputy Merrick's injuries were taken prior to the arrival of IAB investigators. The photographs located by IAB investigators are of poor quality and do not clearly depict Deputy Merrick's injuries **[EXHIBIT D].**

Deputy Merrick's injuries were documented under Uniform Report Number: [redacted].

PHYSICAL EVIDENCE

None

INVESTIGATOR'S OBSERVATIONS

Approximately seven (7) hours transpired from the use of force incident to IAB investigators observation of the scene. IAB investigators located two exterior security cameras affixed to the building directly above where the force incident occurred. Both

cameras appeared to be focused beyond the incident, toward distant parking areas.

IAB investigators contacted property management (STC Management) who advised their security system was antiquated and did not capture the use of force incident.

WEAPONS USED BY INVOLVED DEPARTMENT PERSONNEL

Deputy Shawn Merrick used personal weapons (hands) and O.C Spray.

Deputy [redacted] used personal weapons (knee).

WEAPONS USED BY SUSPECT TONY BAI

Suspect Bai used personal weapons (hands and feet).

PROPERTY DAMAGE BY SUSPECT TONY BAI

There was no property damage identified during this force investigation.

CRIMINAL INVESTIGATION AND CHARGES FILED

On April 17, 2018, a criminal complaint was filed in West Covina Superior Court, charging Suspect Bai with one (1) count of Penal Code §243(C)(2), and two (2) counts of Penal Code §69PC.

On May 8, 2018, Suspect Bai pleaded Nolo Contendere to one (1) count of Penal Code §243(C)(2). He was sentenced to twenty (20) days in county jail, and three (3) years formal probation.

Refer to Court Minutes, Case# [redacted] **Miscellaneous Documents**.

LIGHTING AND WEATHER CONDITIONS

The incident occurred outdoors during evening hours under clear weather conditions. Overhead parking lot light standards, and exterior accent lighting illuminated the general area of the incident.

SUSPECT STATEMENTS

IAB Note: Suspect Bai provided statements during three (3) separate Suspect interviews. The initial interview was by Industry Station Watch Commander, Lieutenant Hugo Reynaga, #[redacted]. Two (2) subsequent interviews were by IAB investigators. Suspect Bai's consistently conveyed a vague recollection of the force incident.

Suspect Bai arrived at the restaurant (Focus BBQ) sometime between 9 p.m. and 10 p.m. where he joined his friends "[redacted]", "[redacted]" and "[redacted]" (Witness [redacted]) for dinner and drinks. He consumed beer and whiskey for three to four hours in the restaurant's upper level outdoor patio. Suspect Bai became intoxicated to the level where he had little to no recollection of the events that followed.

Suspect Bai recalled being resistive toward a deputy, but he could not recall the details of his resistance. He said the deputy punched him once in the face with his fist, causing him to fall to the ground. He recalled being held on the ground by a deputy while on his stomach. Suspect Bai believed he was pepper sprayed on his face and body and believed he was briefly knocked unconscious.

Suspect Bai recalled waking up in a hospital. He asked a deputy at the hospital what had occurred. The deputy told him he was involved in a fight, and when deputies arrived, he fought with them too.

CIVILIAN WITNESS STATEMENTS

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the digitally audio recorded interviews and verbatim transcriptions.

Witness [redacted]

Witness [redacted] was working for [redacted], and was providing security at the Four Seasons Plaza at the time of the incident.

He saw Suspect Bai was in the parking lot, drunk and acting "crazy." Suspect Bai was going in and out of businesses, banging on cars, kicking tires, and setting off car alarms. Suspect Bai cursed obscenities at him, and would run away whenever he confronted him. It was difficult for Witness [redacted] to maintain a constant visual of Suspect Bai because Suspect Bai would constantly run from him.

Witness [redacted] dialed 911 after Suspect Bai ran into the "Tea Station," where "[redacted]", the [redacted] said he wanted Suspect Bai removed. Fifteen to twenty minutes elapsed before the first two deputies arrived on scene. During that 15-20 minute time span, Witness [redacted] did not have a constant visual of Suspect Bai.

Witness [redacted] saw Suspect Bai lying across the hood of a white vehicle near the "Tea Station" when the deputies arrived. Deputies were talking to Suspect Bai when he left the scene to confer with Witness [redacted] as to what else he needed to do. When he returned, Suspect Bai was lying face down on the grass, handcuffed. Witness [redacted] did not witness what transpired between the deputies and Suspect Bai while he was away.

Witness [redacted]

Witness [redacted] was working for [redacted] and was providing security on the upper level at the time of the incident.

Witness [redacted] observed several deputies in the parking lot near the "[redacted]." He phoned Witness [redacted] to inquire what had occurred. Witness [redacted] told him a customer (Suspect Bai) was drunk, harassing customers, punching people, and kicking cars. Witness [redacted] told him Suspect Bai tried to assault him as well. Witness [redacted] remained at his post and did not witness any portion of the incident.

Witness [redacted]

Witness [redacted] was working at the [redacted] when she observed Suspect Bai outside of the store, urinating, and lying on a customer's car. Suspect Bai had been drinking at one of the nearby restaurants and he appeared drunk. Witness [redacted] paid no attention to what occurred when the deputies arrived as she was busy preparing to close the store for the evening.

> **IAB Note: IAB investigators attempted to interview "[redacted]" the "[redacted]; however, he only spoke his native language, Chinese. Utilizing Witness [redacted] as a Chinese language interpreter, "[redacted]" corroborated Witness [redacted] statements and provided no additional information.**

Witness [redacted]

Witness [redacted] arrived at the location (Focus BBQ) at approximately 7 p.m., where he joined his friend "[redacted] (MO/[redacted] NFD), and two of [redacted] friends, "[redacted] (FO/[redacted] NFD), and "Tony" (Suspect Bai), for dinner and drinks. They consumed alcoholic beverages for several hours while socializing in the restaurant's upper level outdoor patio.

Witness [redacted] had too much to drink and was inebriated to the level where he had very little recollection of the events that subsequently took place.

Witness [redacted] recalled hearing sirens, then saw several people, including deputy sheriff's, in the parking lot. He had no idea what had occurred until a deputy told him there had been a fight. The deputy asked him if he was okay and if he had a ride home. The deputy let him go after ensuring he was not going to drive. Witness [redacted] left the location with [redacted] and [redacted] and was unaware of Suspect Bai's whereabouts.

Although Witness [redacted] recollection of the evening was unclear, he did not believe he was involved in any type of physical fight. He had no injuries nor did he recall experiencing any pain, which would suggest otherwise.

EMPLOYEE STATEMENTS

IAB investigators reviewed all reports associated with this incident authored by the involved deputies and determined they were consistent with their IAB Administrative Force Review Interviews

NON-INVOLVED EMPLOYEES

Deputy Ernest Magana

Deputy Magana was working Unit 144F when he responded to the location in response to Deputy Merrick's back-up request. Deputy Magana contacted Witness [redacted] who was sitting on a curb with a visible facial injury. Witness [redacted] appeared intoxicated and admitted to being involved in a fight with Suspect Bai. Refer to Supplemental Report for further **[EXHIBIT A].**

Sergeant Ruben Macias

Sergeant Macias was working as the early morning shift field sergeant, along with Sergeant Enrique Caracheo, #[redacted] Unit 140S. He recalled a business disturbance call being dispatched involving drunken parties. Shortly afterward, Deputy Merrick requested back-up and a sergeant to the location.

The scene was chaotic when Sergeant Macias and Sergeant Caracheo arrived. Numerous onlookers, many who appeared drunk, and others who appeared to have been involved in a fight were in the parking lot adjacent to where Suspect Bai was detained in handcuffs. Sergeant Macias observed a white vehicle parked nearby with blood smeared on hood. Suspect Bai's lips were bloody and he had obvious facial bruising and swelling. Deputy Merrick had scratches on his neck, and his badge was missing from his uniform shirt.

Both involved deputies, Deputy Merrick and Deputy [redacted] explained to Sergeant Macias what had transpired, which ultimately resulted in a use of force. The force that was reported to Sergeant Macias was consistent with what was documented in the respective reports.

The injuries Sergeant Macias observed on Suspect Bai appeared to be consistent with the force that was reported to him.

Suspect Bai was medically treated on scene, then transported to a nearby hospital by uninvolved deputies, Deputies Stavros Vitogiannis, #[redacted] and Johana Escalante, #[redacted] Unit 142K1. Refer to Supplemental Report for further **[EXHIBIT A]**.

Sergeant Macias responded to the hospital and explained the force used on Suspect Bai to the treating physician. Sergeant Macias said the treating physician told him the injuries Suspect Bai sustained were consistent with the force reported.

Sergeant Macias attempted to locate independent witnesses prior to leaving the scene of the incident. Most of those present arrived as onlookers and did not witness the incident. Others did not want to get involved.

Sergeant Enrique Caracheo

Sergeant Caracheo responded to the location together with Sergeant Macias. The situation appeared to be under control when they arrived, so he began searching for witnesses.

Sergeant Caracheo spoke with Witness [redacted] who told him two male Asians were kicking cars and fighting in the parking lot. Witness [redacted] told him one of the disturbing parties (Suspect Bai) tried to hit him when he tried contacting them. Witness [redacted] was approximately 15 yards away when he saw two deputies holding Suspect Bai on the ground. Suspect Bai was attempting to get up.

Sergeant Caracheo contacted the owner of the white vehicle which was parked near the incident and had blood on the hood. The vehicle owner claimed he did not witness the incident involving the deputies and Suspect Bai.

Sergeant Caracheo contacted several additional people at the location who claimed they did not witness the force incident.

Sergeant Caracheo responded to the hospital with Sergeant Macias, where Suspect Bai was being medically evaluated. He received information from medical staff, or from a conversation he overheard, where Suspect Bai explained how he was hit on the back of his head with an unknown object during a fight prior to the arrival of deputies.

IAB Note: **Sergeant Caracheo authored the Internal Affairs Mandatory Notification form. His summary if the incident addressed the injury to the back of Suspect Bai's head. Refer to IAB Mandatory Notification Form for further [EXHIBIT A].**

INVOLVED EMPLOYEE

Deputy Shawn Merrick

A patron in the parking lot directed Deputy Merrick to Suspect Bai. Suspect Bai was passed out on the hood of a white "Maserati." Deputy Merrick noticed blood smeared on the hood of the car, as well as on Suspect Bai's face. Suspect Bai's face was swollen and he had facial abrasions. Deputy Merrick presumed Suspect Bai was involved in a fight, or was the victim of an assault.

Deputy Merrick assisted Suspect Bai off of the vehicle and directed him to sit on the curb. Suspect Bai was cooperative and complied, but he appeared extremely intoxicated. Deputy Merrick asked Suspect Bai if he was okay and if he needed medical

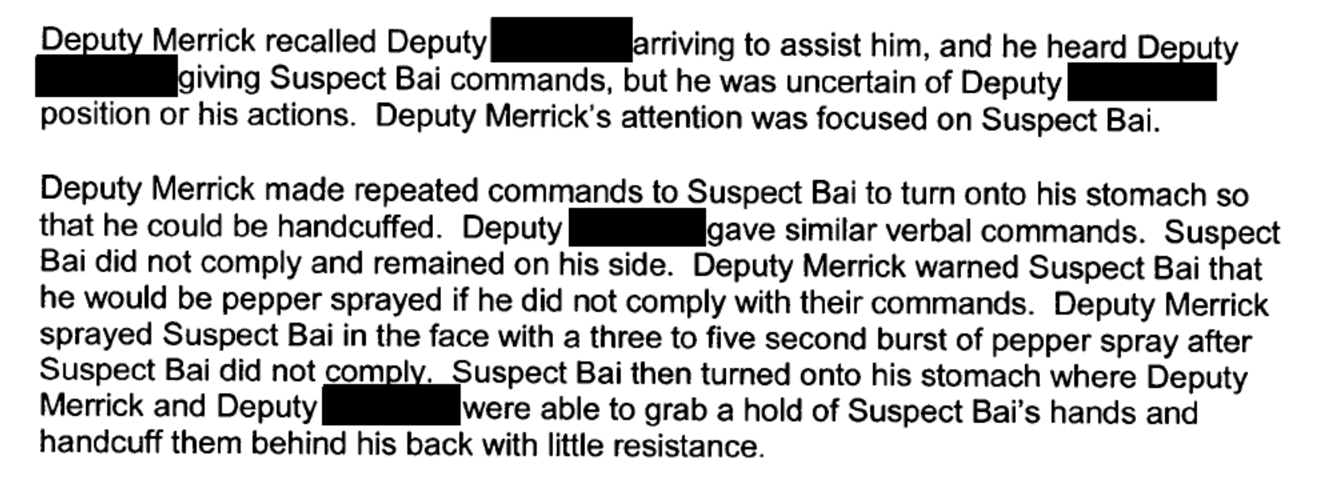
assistance. Suspect Bai replied that he was okay, and he declined the offer for medical assistance.

Deputy Merrick explained to Suspect Bai that he was going to escort him to his patrol car while he investigated the situation. Suspect Bai was cooperative and stood to his feet as he was directed. Deputy Merrick had a control hold of Suspect Bai's left hand and was preparing to do a cursory search when Suspect Bai suddenly turned and broke free from his grasp. Suspect Bai swung his right fist at Deputy Merrick's face. Deputy Merrick backed away to avoid the strike.

Deputy Merrick presumed Suspect Bai's unprovoked assault was prompted by his elevated level of intoxication. Deputy Merrick tried to persuade Suspect Bai to calm down, telling him he was not in trouble, and that he was there to help him. Suspect Bai swung his left hand at Deputy Merrick, striking him on the right side of his neck.

Suspect Bai continued his drunken assault, striking Deputy Merrick on the chest with his opened right hand, knocking the badge off of his uniform shirt. Suspect Bai then reached for Deputy Merrick's neck with both if his hands as if he was going to choke him. Suspect Bai grabbed the radio microphone that was clasped to the front of his uniform. Deputy Merrick swiped Suspect Bai's hands away with his right hand, causing his radio microphone to detach from his shirt. Deputy Merrick pushed Suspect Bai in the chest with both hands, creating distance between himself and Suspect Bai.

Suspect Bai backpedaled until he fell onto his back on the nearby grassy area. He then lifted himself to a seated position, supported by his extended arms. Suspect Bai kicked Deputy Merrick in the right knee with his left leg as Deputy Merrick approached to re-engage him. Deputy Merrick straddled Suspect Bai at his waist and upper leg area, pushing Suspect Bai's upper body back onto the ground. Once on his back, Suspect Bai swung his left fist at Deputy Merrick. Deputy Merrick attempted to end the assault by striking Suspect Bai in the face three to five times in rapid succession with alternating fists. Suspect Bai responded by turning his body to the left, covering his face with his right arm.



Deputy Merrick recalled Deputy [redacted] arriving to assist him, and he heard Deputy [redacted] giving Suspect Bai commands, but he was uncertain of Deputy [redacted] position or his actions. Deputy Merrick's attention was focused on Suspect Bai.

Deputy Merrick made repeated commands to Suspect Bai to turn onto his stomach so that he could be handcuffed. Deputy [redacted] gave similar verbal commands. Suspect Bai did not comply and remained on his side. Deputy Merrick warned Suspect Bai that he would be pepper sprayed if he did not comply with their commands. Deputy Merrick sprayed Suspect Bai in the face with a three to five second burst of pepper spray after Suspect Bai did not comply. Suspect Bai then turned onto his stomach where Deputy Merrick and Deputy [redacted] were able to grab a hold of Suspect Bai's hands and handcuff them behind his back with little resistance.

Deputy Merrick requested medical aid for Suspect Bai and reported his actions and observations to Sergeant Macias, who responded to the scene at Deputy Merrick's request.

IAB Note: Scene photographs were utilized to aid Deputy Merrick in identifying the incident location. The photograph marked with the letter "E," depicts blood on the ground. Deputy Merrick identified this as the location Suspect Bai was treated by paramedics [EXHIBIT E].

INVOLVED EMPLOYEE

Deputy [redacted]

Deputy [redacted] arrived at the location shortly after Deputy Merrick. Upon his arrival, he observed Deputy Merrick walking toward a white "high-end" car, where a male (Suspect Bai) was lying motionless across the hood. Suspect Bai's head was nearest the windshield and his feet were hanging off the front end. Suspect Bai appeared to be sleeping. A second male (Witness [redacted], was pointed out to him by Witness [redacted] Witness [redacted] was yelling and screaming and "creating a scene" approximately twenty to thirty yards away. Witness [redacted] appeared to be extremely intoxicated.

Deputy [redacted] positioned himself between Witness [redacted] and Suspect Bai, monitoring Witness [redacted] actions as Deputy Merrick contacted Suspect Bai. Deputy Merrick had a control hold of Suspect Bai's right wrist as Deputy Merrick and Suspect Bai stood beside the right front fender of the white car. It appeared Suspect Bai was attempting to pull away from Deputy Merrick. Deputy [redacted] heard Deputy Merrick raise his voice and say something the effect of "Relax, don't do this," "Don't hit me."

Deputy [redacted] believed Deputy Merrick was involved in a struggle, so he began making his way to assist him. Deputy [redacted] avenue of approach was through a narrow pathway between parked cars and the building, which was lined with large landscape shrubbery. The shrubbery briefly obstructed his view, as he pushed the plants away to clear his path. While doing so, Suspect Bai unexpectedly came backpedaling through the pathway, glancing off of him, then falling onto his back in the grassy area. Deputy Merrick noticed Suspect Bai's face and arms were smeared with blood.

Deputy Merrick followed Suspect Bai, then straddled his lower waist area, while he ordered him to roll over onto his stomach. Deputy [redacted] tried unsuccessfully to assist Suspect Bai onto his stomach by pulling Suspect Bai's left leg over his right leg.

Suspect Bai had a grasp of Deputy Merrick's uniform shirt at the front neck area and it appeared Suspect Bai was attempting to pull Deputy Merrick down toward him. Deputy Merrick's back was arched as if he was trying to overcome the resistance while he commanded Suspect Bai to let go. Deputy Merrick then struck Suspect Bai in the face

three to five times with both fists. Suspect Bai released his grasp of Deputy Merrick's shirt and placed his fists in front of his face as if he was preparing to strike. Suspect Bai was not complying with their commands to turn onto his stomach.

In an attempt to get Suspect Bai onto his stomach, Deputy [redacted] from a kneeling position, applied one lateral knee strike to the right side of Suspect Bai's lower torso. Suspect Bai responded by curling into a fetal position, then turned onto his stomach, concealing both of his hands beneath his body. Deputy [redacted] felt the effects of OC Spray and realized it was deployed by Deputy Merrick.

Deputy [redacted] grabbed Suspect Bai's left wrist and place it behind Suspect Bai's back. Suspect Bai raised his mid-section off the ground as Deputy Merrick was trying to control his right hand. In an attempt to get Suspect Bai back onto his stomach, Deputy [redacted] applied a second lateral knee strike, this time impacting the Suspect Bai's left upper leg. Once Suspect Bai was flat on his stomach, Deputy Merrick was able to get Suspect Bai's right hand behind his back and together, they handcuffed him.

IAB Note: **Scene photographs were utilized to aid Deputy [redacted] in identifying the incident location [EXHIBIT F].**

ADDITIONAL INFORMATION

INCIDENT TIMELINE

The following timeline summary is based off of the 911 call for service, Incident History Report (Incident: # IDT18103-0359), radio traffic (Radio frequencies, Dispatch-8, and L-Tac-4), and interview statements. Additional information may be obtained by reviewing the respective documents, audio recorded radio traffic, audio recorded interviews, and verbatim transcriptions.

2310 hours – 911 call- Witness [redacted] requested assistance via the 911 emergency phone system. The duration of the phone call was approximately 3 minutes and 52 seconds **[EXHIBIT G].**

2315 hours – Call for service generated. Incident History Number, **IDT18103-0359 [EXHIBIT H].**

2316 hours – Call Dispatched to Unit 141K2, Deputy Merrick, and Unit 141K1, [redacted]

2317 hours – Call voiced by Sheriff's Communication Center (SCC) over Dispatch-8 **[EXHIBIT I].**

2318 hours – Coordinated Response over L-Tac. Deputy Merrick advised Deputy [redacted] over L-Tac to meet him at the location. Deputy [redacted] acknowledged **[EXHIBIT I].**

2327 hours – 10-97 - Deputy Merrick advised his arrival over Dispatch-8 **[EXHIBIT I].**

Deputy Merrick and Deputy [redacted] logged their arrival via their respective Mobile Digital Computers (MDC) **[EXHIBIT H].**

2331 hours – Back-up Request - Deputy Merrick requested back-up and a sergeant to the location over Dispatch-8. Deputy Merrick advised he was detaining an uncooperative suspect **[EXHIBIT I].**

902R - Deputy Merrick requested paramedics, advising the suspect had facial lacerations and was pepper sprayed. SCC Acknowledged **[EXHIBIT I].**

2334 hours - Radio traffic of a subsequent fight at location- An unidentified deputy broadcasted radio traffic over L-Tac-4, inquiring as to who else was responding to the location. The deputy advised responding units that another fight had just occurred and that there were several drunk people at the location **[EXHIBIT I].**